

tion of these strictures: because the administrative centers in Zhili were closer than some (only about a hundred miles apart), the normal span allotted for the review process was reduced by several days.

Case 1 is missing its last pages, torn off accidentally and apparently lost at some point over the past three centuries. Case 5 is complete and includes the vital final summary. A boon to researchers, these synopses are written in smaller characters so that they would fit on a single page and provide the emperor with all the relevant details of a case along with the recommended punishment as he reached his final decision.

CASE 1

Xu Si: A Scuffle over a Debt (Jiangsu, 1702)

In addition to a detailed outline of the various levels of judicial review required for a case of this magnitude, this report reveals the work of anxious judicial officers: not only is there no discrepancy between the various summaries of the case, but even the depositions are represented as verbatim renditions of one another, presumably in an effort to eliminate ambiguity about the facts of the case or the guilt of the perpetrator. Regardless of how earlier reports (from the district and prefectural trials) might have read, the last judicial official to edit the record made certain that there would be no confusion about the perpetrator's motivation for the crime. Clarity and consistency in crime reports justified the suggested verdict and demonstrated the conscientiousness of the various judicial reviews. Especially because the death was accidental, it is not surprising that, according to the report's cover, the imperial decision was to send the case back to the Three Judicial Offices for their recommendation at the autumn assizes concerning appropriate punishment.¹

Your subject Song LUO, Grain Intendant, Provincial Commander in Chief of Military Affairs, Governor of Jiangning and Other Areas, Vice President of the Censorate, Third Additional Grade,² respectfully submits this MEMORIAL concerning a capital murder case:

The detailed memorandum submitted by Commissioner Tong Yuxiu of the Jiangsu Provincial Judicial Commission states that he had examined a certain individual named Xu Si, twenty-nine *sui* in age, a native of Chongming District of Suzhou Prefecture. The complaint contends that this Xu Si and the late Zhang Mingfu, whom he beat to death, bore no previous enmity.

It read: "Xu Si is a winemaker by profession. Zhang Mingfu, originally from Tongzhou, together with Jiang Junlong, a native of Jurong District who

is presently in custody, lived nearby in New Kaihe Market in Chongming District, where together they opened a wineshop. Previously, Mingfu had purchased wine from Xu Si to sell, but he was in arrears in the amount of 120 coppers. He was billed several times, but he did not repay the debt.

"On Kangxi 40.7.5 [August 8, 1701], Xu Si again went to collect the debt. Mingfu still did not repay the debt, and the two of them fell to arguing. Xu Si smashed pottery bowls in the shop, and Mingfu butted Si with his head. Thereupon, Si wrongfully used his fists to return the blow, injuring Mingfu's ribs on the right side, and he fell to the floor. At that point, Jiang Junlong and others urged them to separate. Zhang Mingfu's injury was serious, and around nightfall he perished."

Zhang Sanyuan, the nephew of the deceased, now in custody, subsequently filed the complaint of capital murder listing Xu Si as the perpetrator, with Jiang Junlong and Li Jingshan as witnesses. The local warden Shen Danwen likewise submitted his report on the matter. These documents were filed at the magistrate's *yamen* on 7.6 [August 9]. Magistrate Wang [Wenyu] of the aforementioned Chongming District, accompanied by a clerk and the coroner, rode by single horse with few followers to the site of the corpse. In the presence of the original parties to the case, he personally conducted an inquest at the scene of the crime.

Coroner Fan Jia reported orally that the deceased Zhang Mingfu was forty-five *sui* in age; his ribs on the right side had a lethal fist wound, purple-red in color, 2.4 *cun* across. There were no other causes of death. When the examination was complete, the corpse was enshrouded and encoffined. The verified report of the coroner's examination was entered into the record to be available before the criminal is brought to court for investigation.

A petition based on the criminal's deposition was then prepared for submission to the various superior offices as is appropriate. Thereafter, I received a rescript from the Suzhou Prefecture authorizing a speedy investigation of the facts concerning the homicide and the proposal of sentencing based on the depositions. Then I awaited rescripts granting authorization from the various superior courts. I received the rescript of authorization from the Suzhou-Songjiang Circuit allowing Suzhou Prefecture to investigate the facts concerning the murder and to propose sentencing in a detailed report. Then I awaited indication of approval by the Censorate and the [Jiangsu Provincial Judicial] Commission. I received a rescript of authorization from the judicial commission allowing Suzhou Prefecture to investigate thoroughly all facts concerning the murder and to submit a statement of consideration with depositions and proposed sentences. Then I awaited indi-

cation of the approval of the Censorate and the [Suzhou-Songjiang] Circuit. I received a rescript of authorization from Censor Song, the provincial governor, allowing the judicial commission to investigate thoroughly all facts, to determine penalties, and to submit a report. Then I awaited indication of approval from the Governor-General's Judicial Office. I received a rescript of authorization from [Board of Punishments] senior vice president [*buyuan*] A, the governor-general, allowing the Jiangsu Provincial Judicial Commission to investigate and to ascertain the facts concerning the capital murder and to submit a report proposing punishments.³ Then I awaited a rescript of authorization from the provincial governor indicating his approval. The district having received this rescript, Wang Wenyu, Magistrate of Chongming, summoned the criminal and all relevant witnesses to court.

Thereupon, he conducted a strenuous investigation. He interrogated Zhang Sanyuan: "What was your relationship with the deceased Zhang Mingfu? Why was he beaten to death by Xu Si? Ordinarily, was there any enmity between them? Testify."

He testified: "I am from Tongzhou; Zhang Mingfu is my uncle. Together with Jiang Junlong, he sold wine for a living in New Kaihe Market of this district. He had no enmity with Xu Si. My uncle sold wine he bought wholesale from Xu Si, but he owed him 120 coppers for the wine. On the morning of 5-7, Xu Si came to collect the money, but Uncle had none to repay him. Xu Si and Uncle began to quarrel, and he beat Uncle up. At dusk, Uncle died. I wasn't in the shop when they were fighting; Jiang Junlong told me about it, and I filed the complaint. I beg Your Honor to get to the bottom of this!"

Interrogation of Shen Danwen: "You're the local warden? Do you know why Zhang Mingfu was beaten to death by Xu Si? Testify."

He testified: "I am the local warden. That Zhang Mingfu was from Tongzhou. Together with Jiang Junlong, a Jurong man, he opened a wine-shop in New Kaihe Market. There, Zhang Mingfu sold wine he bought wholesale from Xu Si, but he owed him 120 coppers for the wine. On the morning of the fifth of the seventh month, Xu Si came to collect the money. When Zhang Mingfu had nothing to repay him, they got into an argument. Xu Si hit Zhang Mingfu and injured him. At dusk, Mingfu died. I live far away from the market town, so at first I didn't know about it. On the sixth, Zhang Sanyuan came and told me about it, and I immediately filed my report."

Interrogation of Jiang Junlong: "Where are you from? Living here with Zhang Mingfu, what did you do for a living? Why was Zhang Mingfu beaten to death by Xu Si? Testify to the facts."

He testified: "I'm from Jurong District. Zhang Mingfu was from Tongzhou. Together, we ran a wineshop in New Kaihe Market in this district. Xu Si's family made wine. Zhang Mingfu bought wine from him wholesale for us to sell. But we owed him 120 coppers for wine. On the morning of the fifth of the seventh month, Xu Si came to collect the money. Zhang Mingfu answered him, 'Come back this afternoon, and I'll pay you,' but Xu Si had his mind made up that he wanted it now. So they got into an argument. Xu Si smashed some of the pottery bowls in our shop, and in the heat of the moment [*qingji*] Zhang Mingfu butted Xu Si with his head. Xu Si then knocked Zhang Mingfu down with a single punch of his fist. I and a neighbor, Li Jingshan, got them apart, but by dusk Zhang Mingfu was dead."

Interrogation of Li Jingshan: "From your perspective, why did Xu Si beat Zhang Mingfu to death? Testify."

He testified: "I'm the neighbor next door to Zhang Mingfu's wineshop. Zhang Mingfu sold wine that he bought wholesale from Xu Si. But he owed him 120 coppers for the wine. On the morning of the fifth of the seventh month, Xu Si came to collect the money. Zhang Mingfu answered him, 'I won't have it until this afternoon,' but Xu Si had his mind made up that he wanted it now. So they got into an argument. Xu Si smashed some of the pottery bowls in the shop, and Zhang Mingfu butted Xu Si with his head. Then Xu Si gave him one punch with his fist, and Zhang Mingfu fell down on the ground. I and Jiang Junlong got them apart, but by dusk, Zhang Mingfu was dead."

Interrogation of Xu Si: "What enmity was there between you and Zhang Mingfu? Why did you provoke a fight with him and beat him to death? Testify."

He testified: "I make wine for a living. There never was any enmity between me and Zhang Mingfu. He sold wine he bought from me at wholesale, and he owed me 120 coppers for wine. I tried to collect many times, but he was never willing to repay me. On the morning of the fifth of the seventh, I went again to collect the money, but he still wasn't able to repay me. I spoke to him about it, but he cursed me in return. Momentarily I lost my temper [*yishi qifen*], and I smashed one of the pottery bowls in his shop. Then Zhang Mingfu butted me with his head, and I hit him back once with my fist. I never thought that hitting him in the ribs would make him fall over. By dusk, he was dead. I beg you to be lenient!"

All of the depositions having been recorded in the report, Wang Wenyu, the magistrate of Chongming District, concluded: Xu Si brews wine for a liv-

ing. He had no prior enmity with Zhang Mingfu, who was beaten to death. Mingfu's place of origin was Tongzhou; he lived with Jiang Junlong of Jurong District, and as partners, they opened a wineshop in New Kaihe Market of this district. Mingfu had previously resold wine purchased wholesale from Xu Si, and he owed him 120 coppers for the wine. He was billed repeatedly but did not make repayment. On Kangxi 40.7.5, Xu Si returned to bill him, but they got into an argument. When Xu Si broke pottery bowls in the wineshop, Mingfu butted Si with his head. Si then raised his fist, struck, and injured Mingfu's ribs on the right side; Mingfu fell to the ground. Jiang Junlong and others separated the two, but Mingfu was seriously injured; at dusk, he expired.

The nephew of the deceased filed a complaint with the district, which examined the wound and submitted a report. Having received rescripts of authorization to conduct an investigation, this office thereupon examined all the true facts concerning the injury; the aforementioned criminal confessed everything without hesitation. Xu Si should be punished in accordance with the law on "killing a person during an affray": the perpetrator "should be sentenced to strangulation after the autumn assizes."⁴ Local warden Shen Danwen, having not seen the essential evidence of the affray, has already been released from responsibility. Whether or not this meets with your concurrence, I humbly await instructions from the Prefecture.

The depositions and the facts of the case having been forwarded to the prefecture, the aforementioned Shi Wenzhuo, Prefect of Suzhou, brought forward the criminal for examination. His deposition was identical [to that in the magistrate's report]. I adjudge that in the case of Xu Si beating to death Zhang Mingfu, there was originally no enmity between them. The cause lies in Si's brewing of wine as a profession; previously, Mingfu had purchased wine wholesale from Si for distribution and had accumulated a debt of 120 coppers. On several occasions, he was billed, but he made no repayment. On Kangxi 40.7.5, Xu Si again went to demand payment, and the two argued with each other. When Xu Si smashed one of the pottery bowls in his wineshop, Mingfu butted Si with his head. Si raised his fist and struck him in return, injuring Mingfu's right ribs, and Mingfu fell to the ground. At dusk, he expired. The nephew of the deceased filed a complaint with the district, which filed a brief on its preliminary examination and was authorized to carry on a detailed investigation. The magistrate having forwarded the criminal, this office again carried out a strenuous investigation of the injury along with the depositions. I concur with the magistrate's recommendation that

Xu Si receive the punishment of strangulation. I humbly await the commission's instructions.

The case having been forwarded to the commission, this Commission brought forward the criminal for examination. Interrogation of Zhang Sanyuan: "Was the deceased Zhang Mingfu your uncle? What enmity did he have with Xu Si? What was the source of the conflict over which he beat him to death. Testify."

He testified: "Zhang Mingfu was my uncle. Originally, he was from Tongzhou. Together with Jiang Junlong, a Jurong man, as his partner, he opened a wineshop in New Kaihe Market in Chongming. He had no enmity with Xu Si, but because Uncle bought wine wholesale from Xu Si to sell, he owed him 120 coppers. On the fifth of the seventh month, Xu Si came by to collect, but Uncle was not able to repay him. So Xu Si injured Uncle, and he died. I was not in the wineshop during the fight. Jiang Junlong and Li Jingshan were witnesses.

Interrogation of Jiang Junrong: "You ran a wineshop with Zhang Mingfu. Why was that Zhang Mingfu beaten to death by Xu Si? Testify."

He testified: "I am from Jurong District. Zhang Mingfu is a Tongzhou man. We ran a wineshop together in New Kaihe Market in Chongming. That Xu Si brews wine as a business. Zhang Mingfu bought wine from him wholesale to sell, and he owed him 120 coppers. On the morning of the fifth of the seventh month, Xu Si came to collect the money. Zhang Mingfu said to him, 'Come back this afternoon, and I'll give it to you.' But Xu Si had made up his mind that he wanted it now. An argument broke out, and Xu Si smashed the wineshop's pottery bowls. Zhang Mingfu butted Xu Si with his head, and Xu Si gave him a punch, knocking him down. Li Jingshan and I separated them, but at dusk, Zhang Mingfu died."

Interrogation of Li Jingshan: "From your perspective, what is the real reason that Zhang Mingfu was beaten to death by Xu Si? Testify."

He testified: "I'm the next-door neighbor to Zhang Mingfu's wineshop. Zhang Mingfu bought wine wholesale from Xu Si to sell, and he owed him 120 coppers. On the morning of the fifth of the seventh month, Xu Si came to collect his money. Zhang Mingfu said to him, 'I'll have the money this afternoon.' But Xu Si had made up his mind that he wanted it now. An argument broke out, and Xu Si broke the wineshop's pottery bowls. Zhang Mingfu butted Xu Si with his head, and Xu Si gave him a punch. Zhang Mingfu fell down on the ground. Jiang Junlong and I separated them, but at dusk, Zhang Mingfu died."

Interrogation of Xu Si: "What enmity did you have with Zhang Mingfu? Over what matter did you get into the argument during which you beat him to death? Testify."

He testified: "I brew wine for a living. I never had any enmity with Zhang Mingfu. Zhang Mingfu bought wine from me wholesale to sell, and he owed me 120 coppers. I tried to collect it several times, but he wouldn't pay me. On the morning of the fifth of the seventh month, I went again to collect, but he still wouldn't pay me. I spoke with him, but he cursed me back. In anger, I broke a pottery bowl from his shop, and then Zhang Mingfu butted me with his head. I hit him back just once. I didn't think that hitting him in the ribs would make him fall down. At dusk, he died."

After another summary by the judicial commissioner, the document was forwarded to Beijing as a memorial to the emperor. On the cover is his decision: to remand it to the Three Judicial Offices for their recommendation concerning the appropriate punishment, which was very likely less than strangulation, perhaps a beating and a period of exile as the next most strenuous punishment.

NOTES

Source: *Neige tiben Xingke Xingbu Xingfa* [Grand Secretariat routine memorials, Board of Punishments, Crime and Punishment] 522–113, Kangxi 41 (1702), Suzhou.

1. The Three Judicial Offices (Sanfasi), also known as the Three High Courts of Judicature, are the Court of Judicial Review, the Board of Punishments, and the Censorate—the highest capital officials.

2. Song Luo's many positions are normally held concurrently with that of provincial governor. His awards are ordinary, for regular honorable service. See Brunnert and Hagelstrom, *Present Day Political Organization*, 511. For a biographical sketch of Song Luo, see *Eminent Chinese*, 689–90.

3. Manchu names are often treated as Han names; the first syllable is used as if it were a surname. Because the last pages of the report are missing, the rest of this official's name is not obvious.

4. According to *The Great Qing Penal Code*, Article 290. "Anyone who, during an affray, strikes and kills another, regardless of whether he has struck with the hand, or the feet, or with another object, or with a metal knife, will be punished with strangulation (*with delay*)" (Jones, *Great Qing Code*, 276).

CASE 2

Li Huaiyu: The Missing Brother (Hunan, 1736)

Complications abound in this memorial, sent to the capital in the name of one of the highest imperial princes. The murder had gone undetected for several years, and when the investigation finally began, more deaths occurred: illness took the life of the magistrate who originally heard the case, and one of the suspects died in prison, ostensibly of an infection, although the care with which the next magistrate conducted the inquest suggests that he was initially unsure whether foul play was involved. In order to make a recommendation of punishment, he had to reexamine the case, and through this process, he learned far more about those involved.

The principals in this case were among the poorest in the region, at the level at which children were sold as indentured servants, and even though the victim was wealthy by comparison, he was indistinguishable in dress and appearance from a roaming beggar. It is hardly surprising that members of the elite serving in public office should have found the stories of these people hard to understand; the family ties so prized by the elite seemed to be less important than personal integrity to these poor folk.¹ Even so, the questioning as recorded here does reveal ever more complex tensions among the people involved, all of whom were related by marriage or birth. The bulk of the memorial is from the magistrates' detailed briefs.

Board of Punishments . . . , and Prince of the Blood of the First Degree, Your subject Yunli respectfully submits this MEMORIAL concerning the report of a fratricide and its investigation. The Board of Punishments' Office of Scrutiny forwards a report from Wu Yingfen, Acting Adjutant for the Huguang Governor and Junior Vice President of the Board of War, concerning a previous matter. Therein, Yuan Chenglong, Commissioner of the Huguang Judicial Commission at Wuchang, reports on his examination of one Liu Xinglong, forty-seven sui in age, a resident of Xiangyang District, Xiangyang: the complaint names Xinglong as an utterly lawless [*wangzhi faji*] perpetrator of murder for personal gain [*tucai haiming*]. Previously, Xinglong had lodged at the home of his younger sister's husband Li Huaiming and had maintained warm relations with the deceased Li Huaiyu. On Yongzheng 7.2.8 [March 7, 1729], Xinglong went to Huaiming's house to offer sacrifices at the death of his younger sister. On the way, he encountered Huaiyu and asked him where he was headed. Huaiyu replied that he was buying a water buffalo. Speculating that he must be carrying some silver with him, [Xinglong] determined